IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 24211 of 2004

Between:

A.Phani Raj, s/o (Late) Prahalada Rao,
c/o A.Nagarajarao, r/o Rudravaram Post and Mandal,
Kurnool District.

..... PETITIONER

AND

1 The Principal Secretary to Government, Revenue (C.T.III) . . . . . .
Department, Secretariat, Hyderabad.
2 The Commissioner of Commercial Taxes, A.P.,Hyderabad.
3 Deputy Commissioner of Commercial Taxes, Kurnool, Kurnool . . . . . District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more in the nature of certiorari calling for the records relating to and in connection with the orders passed by the Hon'ble A.P.Administrative Tribunal in O.A.No.2708/2004, dated 22-11-2004 and declare the impugned rejection orders passed by the respondent No.3 in Rc.No.A3/1221/2003, dated 23-9-2003 as arbitrary, illegal, and violative of Article 14, 16 and 21 of the Constitution and consequentially to direct the respondents for payment of Ex-gratia as provided under G.O.Ms.No.59, GA Services, Department, dated 5-2-1993.

Counsel for the Petitioner:MR.P.V.RAMANA

Counsel for the Respondents: GP FOR SERVICES II

The Court at the admission stage made the following :

ORDER: **(Per the Hon'ble Sri Justice G.Bikshapathy)**

This Writ Petition is filed challenging the order dated 22-11-2004 in O.A.No.2708 of 2004 passed by the A.P. Administrative Tribunal.

2. The matter relates to the payment of ex-gratia amount on compassionate ground. The petitioner's father was working as A.C.T.O. While so, he died on 6-6-1984. Thereafter, the wife of the deceased employee made an application before the 3rd respondent for appointment on compassionate ground and the same was rejected. Subsequently, the son of the deceased filed an application for appointment on compassionate ground and the same was also rejected. Then the wife of the deceased filed O.A.No.601 of 1998 seeking appropriate relief. The Tribunal directed the authority to consider her case in accordance with the rules, either for appointment or for ex-gratia as stipulated in G.O.Ms.No.59-GA, dated 5-2-1993. The Government considered the matter and rejected the same on the ground that G.O.Ms. No. 59-GA, dated 5-2-1993 came into force with effect from 30-10-1991 and as the date of the death of the employee was 6-6-1984, the said G.O. is not applicable to the case of the petitioner. The said order was challenged in O.A.No.2708 of 2004 before the Tribunal. After considering the matter, the Tribunal held that the benefit of G.O.Ms. No.59, GA Department, dated 5-2-1993 cannot be made applicable to the case of the petitioner as the said G.O was not in existence as

on the date when the death of the deceased occurred and accordingly dismissed O.A.No.2708 of 2004. Assailing the said order, the present writ petition is filed.

3. The learned counsel for the petitioner submits that limitation has to be taken into consideration from the date, when the application was dismissed i.e. from the year 2000 and not from the date of death of the employee and therefore, the order of the Tribunal is liable to be set aside.

4. We are afraid we cannot accept the contentions raised by the learned counsel for the petitioner. Admittedly, G.O.Ms. No. 59,GA Services Department, came into force from 5-2-1993 and the employee died on 6-6-1984, i.e. prior to the issuance of the said G.O.

5. Under those circumstances, we do not find any flaw in the impugned order passed by the Tribunal.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

G.Bikshapathy,J.

P.S.Narayana, J.

16th February, 2005.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to Government, Revenue (C.T.III) . . . . . .
Department, Secretariat, Hyderabad.
2 The Commissioner of Commercial Taxes, A.P.,Hyderabad.
3 Deputy Commissioner of Commercial Taxes, Kurnool, Kurnool . . . . . District.

4. 2 CCs to G.P. for Services-II, High Court Buildings, Hyderabad (OUT)

5) 2 CD copies

6) The Registrar, A.P. Administrative Tribunal,Hyderabad.

THE HONOURABLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HONOURABLE SRI JUSTICE P.S.NARYANA

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W.P.No. 24211 OF 2004

16th February,2005.